

REMARKS

In the Office Action mailed January 25, 2006, the following issues were raised:

1. Claims 1-4, 7, 8, 11, and 12 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 2,413,145 to Kump ("Kump I");
2. Claims 1-3, 5-7, 9-11, 13-16, 18, 19, and 21 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 2,404,182 to Kump ("Kump II");
3. Claims 1-3, 5, 7, 9, 11, 13, 15-17, 19, and 21 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 1,645,336 to McGlothern in view of U.S. Patent No. 3,300,245 to Rumble;
4. Claims 4, 8, 12, and 20 were rejected under 35 U.S.C. § 103(a) as being obvious over the Kump II reference in view of U.S. Patent No. 740,846 to Giddings;
5. Claim 17 was rejected under 35 U.S.C. § 103(a) as being obvious over the Kump II reference in view of the Rumble reference;
6. Claims 22, 23, and 26 were rejected under 35 U.S.C. § 103(a) as being obvious over the Kump II reference in view of U.S. Patent No. 2,425,263 to Niver;
7. Claims 24 and 27 were rejected under 35 U.S.C. § 103(a) as being obvious over the Kump II reference in view of the Niver reference, and further in view of the Rumble reference; and
8. Claim 25 was rejected under 35 U.S.C. § 103(a) as being obvious over the Kump II reference in view of the Niver reference, and further in view of the Giddings reference.

Claims 1-6, 9, and 13 have been canceled from the present application.

New claims 28-32 have been added. New independent claim 28 is based on claim 22, but includes additional limitations as per the recommendation of the Examiner. Support for these claims may be found in the specification in, among other places, Figs. 1, 4, and 5 and the accompanying description. The patentable subject matter of new claim 28 lies at least in limitations of the tenon portions being formed from the same plies as the body portion, the bottom of the second tenon portion not extending beyond to bottom of the table, the foot protector having edges flush with the outer edge of the body portion, or any combination of the foregoing. Each of claims 29-32 depend from claim 28 and have at least the same patentable subject matter as claim 28.

Anticipation Rejections

Claim 7 was rejected as anticipated by the Kump I reference. Anticipation requires that each and every limitation of the claim be taught by the cited reference. Applicant has amended claim 7 to include the limitations that “the body portion is formed from a single pillar” and that “the second tenon portion extends outwardly from at least two sides of the body portion”. Neither of these limitations are disclosed by the Kump I reference. The Kump I reference discloses the construction of an archway from laminated plywood. The archway, in order to be functional, requires two supports – a single support cannot be used to construct an “archway”. Therefore, the Kump I reference does not disclose the limitation of “a single pillar”. Further, the overhang portion of the archway disclosed in the Kump I reference extends from only a single side of each support. Therefore, the Kump I reference also does not disclose the limitation of the tenon portion extending “outwardly from at least two sides of the body portion”. For these reasons, the Kump I reference does not anticipate the support member of amended claim 7.

Claim 11 was also rejected as anticipated by the Kump I reference. Applicant has amended claim 11 to include the limitations that "the body portion is formed from a single pillar" and that "the second tenon portion extends outwardly from at least two sides of the body portion". For the same reasons stated above in connection with claim 7, the Kump I reference also does not anticipate the support member of amended claim 11. Claims 8 and 12, being dependent from claims 7 and 11, respectively, are also not anticipated by the Kump I reference.

Claim 7 was also rejected as anticipated by the Kump II reference. The Kump II reference discloses furniture having U-shaped legs, which may be formed out of plywood. Because each leg is U-shaped, each leg has two support structures (25), and both support structures (25) are needed to provide support to the cross member (26). Nothing in Kump II implies that a leg having a single support structure will serve the same purpose. Further, the cross member extends outwardly from each support structure in only a single direction. Thus, the Kump II reference does not disclose the limitations of "a single pillar" or the tenon portion extending "outwardly from at least two sides of the body portion". For these reasons, the Kump II reference does not anticipate the support member of amended claim 7.

Claim 10 depends from claim 7. Where the Kump II reference does not anticipate amended claim 7, it also does not anticipate claim 10.

Claim 11 was also rejected as anticipated by the Kump II reference. For the same reasons stated above in connection with claim 7, the Kump II reference does not anticipate the support member of amended claim 11. Claim 14 depends from claim 11. Where the Kump II reference does not anticipate amended claim 11, it also does not anticipate claim 14.

Claim 15 was also rejected as anticipated by the Kump II reference. Claim 15, as amended, includes the limitation that "the body portion is formed from a single pillar". For the same reasons stated above in connection with claim 7, the Kump II reference

does not anticipate the table of amended claim 15. Each of claims 16, 18, 19, and 21 depend from claim 15. Where the Kump II reference does not anticipate amended claim 15, it also does not anticipate these dependent claims.

Obviousness Rejections

Claim 7 was rejected as obvious over the McGlothern reference in view of the Rumble reference. In order to establish a *prima facie* case of obviousness, all of the limitations found in the rejected claims must be disclosed or taught by the cited references. MPEP § 2143. The McGlothern reference clearly teaches a table leg having two support members. The two support members lend this leg strength and stability. The McGlothern reference does not teach, either expressly or inherently, that the table leg could be constructed using a single support member. The McGlothern reference therefore does not teach the limitation in claim 7 that “the body portion is formed from a single pillar”. Furthermore, the table leg taught by the McGlothern reference has the tenon portion extending outwardly from each support structure in only a single direction. Thus the McGlothern reference also does not teach the limitation that “the second tenon portion extends outwardly from at least two sides of the body portion”. The Rumble reference, which teaches a picnic table, teaches nothing that would fill in these gaps in the teachings of the McGlothern reference. For these reasons, the combination of the McGlothern and Rumble references does not establish a *prima facie* case of obviousness over the support member of amended claim 7.

For the same reasons stated above in connection with claim 7, the combination of the McGlothern and Rumble references does not establish a *prima facie* case of obviousness over the support member of amended claim 11 or the table of amended claim 15. Similarly, a *prima facie* case of obviousness has not been established over any of claims 13, 16, 17, 19, or 21, each of which depend from one of claims 11 or 15.

Claims 8, 12, and 20 were rejected as obvious over the Kump II reference in view of the Giddings reference. Each of these claims depends from one of claims 7, 11, or 15. As discussed above, the Kump II reference does not teach all the limitations of claims 7, 11, or 15. The Giddings reference, which teaches a frame for tables, teaches nothing that would fill in these gaps in the teachings of the Kump II reference. For these reasons, the combination of the Kump II and Giddings references does not establish a *prima facie* case of obviousness over claims 8, 12, and 20.

Claim 17 was rejected as obvious over the Kump II reference in view of the Rumble reference. Claim 17 depends from claim 15, and as discussed above, the Kump II reference does not teach all the limitations of claim 15. The Rumble reference teaches nothing that would fill in these gaps in the teachings of the Kump II reference. For these reasons, the combination of the Kump II and Rumble references does not establish a *prima facie* case of obviousness over claims 17.

Claim 22 was rejected as obvious over the Kump II reference in view of the Niver reference. Applicant has amended claim 22 to include the limitation of canceled claim 27, which was rejected as obvious over the Kump II, Niver, and Rumble references. In the rejection of claim 27, the Office Action states that “it would have been obvious ... to make the foot protector plies orthogonal to the plies of the body portion ... since having plies orthogonal is functionally equivalent to not having them orthogonal” While the Rumble reference teaches that plywood may be assembled to make furniture having the plies of adjoined pieces disposed orthogonally to one another, it certainly does not provide any motivation for such a configuration for a foot protector as is required to establish a *prima facie* case of obviousness according the MPEP § 2143. The Kump II and Niver references are similarly lacking in teaching a motivation to form the table of amended claim 22. The Kump II and Niver references teach that a foot protector is desirable, but neither teach the particular configuration found in amended claim 22. The Kump II reference teaches a table leg constructed out of multiple plies and a foot

protector formed out of metal. The Niver reference, on the other hand, teaches table legs that are not constructed from plywood and base members (13) which are formed from blocks of wood. Thus, the Niver reference does not teach the use of plywood, as that term is traditionally understood, for purposes of constructing the furniture disclosed therein. Even if the Niver reference is considered to disclose foot protectors constructed from plywood, it does not provide any motivation for making the “plies” of the base members orthogonal to the (nonexistent) plies of the legs. It is not enough that the teachings of the various references could be combined to create the claimed invention, rather the cited references must actually teach or provide motivation to create the claimed invention. MPEP § 2143.01. The combination of references do neither insofar as amended claim 22 is concerned. For these reasons, the cited combination does not establish a *prima facie* case of obviousness over amended claim 22.

Each of claims 23, 24, and 26 depend from claim 22. Where the combination of the Kump II, Niver, and Rumble references does not establish a *prima facie* case of obviousness over amended claim 22, the cited references also do not render claims 23, 24, and 26 obvious.

Claim 25 was rejected as obvious over the Kump II reference in view of the Niver and Giddings references. Claim 25 depends from claim 22. As discussed above, the combination of the Kump II and Niver references does not render claim 22 obvious. The Giddings reference adds nothing meaningful to the obviousness analysis. In particular, the Giddings reference includes no teachings or disclosure about foot protectors. As such, the cited combination does not establish a *prima facie* case of obviousness over amended claim 25.

Conclusion

In view of the foregoing, reconsideration of the rejections and issuance of an advisory action is requested.

Respectfully submitted,

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